

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C.**

In the Matter of)	
)	
Truth-in-Billing and)	
Billing Format)	
)	
National Association of State Utility)	CC Docket No. 96-45
Consumer Advocates' Petition for Declaratory)	
Ruling Regarding Monthly Lines and)	
Surcharges Imposed by Telecommunications)	
Carriers)	

**Reply Comments of the Public Service
Commission of the State of Missouri**

The Public Service Commission of the State of Missouri ("MoPSC") offers the following reply comments in response to comments filed with the Federal Communication Commission ("Commission") on July 14, 2004 addressing the National Association of State Utility Consumer Advocates' (NASUCA) Petition for Declaratory Ruling (Petition).

I. NASUCA Petition

In its Petition, NASUCA states, "A principal goal of the federal telecommunications laws is to ensure that the charges carriers, both wireline and wireless, impose on consumers for telecommunications services are 'just' and 'reasonable.'" NASUCA continues, "In its 'Truth-in-Billing' ('TIB') docket the Commission undertook to prescribe carrier practices to help consumers avoid falling prey to unscrupulous telecommunications carriers who hid or mislabeled unauthorized charges on consumers' telephone bills. In its 1999 Order in the TIB docket, the Commission adopted principles

and guidelines to provide consumers with basic information they need, both to make informed choices in a competitive telecommunications market and to protect themselves from unscrupulous competitors.” The MoPSC agrees with NASUCA’s assertions that, “The Commission’s efforts represented a significant attempt to address problems that were the byproduct of competition.” Unfortunately, as NASUCA points out, many carriers charge line item fees and surcharges, purporting to recover various regulatory, administrative and/or government mandated costs. As one Missouri consumer recently commented, “When I query the phone company about the fees and taxes, they maintain they are imposed by State and Federal governments and there is nothing they can do about it. What is unclear is how much is truly tax and how much is routine cost-of-business expense.”¹

Line Item fees and surcharges make it difficult for consumers to comparison shop for telecommunications services and allow carriers to offer low per/minute or monthly fixed rates, while recovering various costs in surcharges and fees that may not be disclosed during marketing conversations unless the consumer asks the appropriate questions. For reasons similar to those addressed in the NASUCA petition, the MoPSC has directed its staff to begin drafting a proposed rulemaking to outline requirements for the application of monthly charges and taxes for intrastate telecommunications services. The FCC’s truth-in-billing rules require customer bills to be clear and require all charges to be conspicuously displayed on the bills. The rules also require companies to provide a description of all charges that appear on the bill. Despite this attempt to make telecommunications bills easier to understand, they can become confusing to customers

¹ Consumer comment to the Missouri Public Service Commission in response to an article in the *Kansas City Star*. Comment No. P200400279. May 3, 2004.

when they contain added line-item charges.

Several comments oppose NASUCA's petition as a legal or policy matter, stating that it violates First Amendment protections on freedom of commercial and political speech. These parties argue that NASUCA fails to show or advance substantial governmental interest; that regulation will reduce or eliminate the harm; and is not more extensive than necessary.² In other words, the parties claim there is no evidence presented to support the *Central Hudson* test.³ The MoPSC agrees with the Ohio PUC that such a prohibition on line item surcharges does not tread on free speech because it regulates business practices, i.e., regulates the content (requires disclosure) and placement of items on a consumer's bill. These concepts are consistent with the draft rulemaking the MoPSC has undertaken, whereby a proposed rulemaking would identify limitations and requirements for applying monthly charges and taxes for telecommunications services on residential and business customer bills.

Cingular Wireless, LLC suggested a less-restrictive alternative of "uniform" labels. While in theory, this suggestion would provide some clarification, the MoPSC has discovered through its state USF rulemaking process that in practice, carrier billing system limitations do not allow for "uniform" labeling of services. As previously stated, the truth-in-billing rules require all charges to be clear and conspicuous. Yet, some carriers use similar nomenclature for duplicitous recovery of what appears to be similar charges or services. For instance, an ILD Teleservices, Inc. bill reviewed by MoPSC

² *In the Matter of Truth-in-Billing and Billing Format and National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Monthly Line Items and Surcharges Imposed by Telecommunications Carriers*. CC Docket No. 98-170. See comments of Nextel Communications, Global Crossing, Bell South, MCI, Sprint, Verizon.

³ *Central Hudson Gas & Elect. Corp. v. Public Service Commission of the State of New York*, 447 U.S. 557 (June 20, 1980).

staff contains the following “miscellaneous” charges for one telephone line: Universal Service Fund: Jan 16 \$1.27; USF Carrier Adminstrati: Jan 16 \$1.03; Universal Service Fund: Jan 22 \$.89; USF Carrier Adminstrati: Jan 22 \$.83; Universal Service Fund: Jan 30 \$1.46; USF Carrier Administrati: Jan 30 \$1.13; Universal Service Fund: Feb 7 \$1.66; USF Carrier Administrati: Feb 7 \$1.24. There is no clear description of these apparently similar charges, no explanation as to why each charge appears multiple times and no explanation as to why each charge is a different amount than the previous time period. This example suggests that even “uniform” or “similar” labeling will not alleviate consumer confusion, but may serve to compound that confusion as costs are inaccurately represented as “recovery of regulatory costs” or “recovery of government mandates”. Another Missouri consumer, whose local and long distance charges were approximately \$21, with other charges, taxes and surcharges adding another \$14.50 to his telecommunications bill, remarked, “Glad to see someone is looking into these questionable charges. Keep up the good work.”⁴

The National Telecommunications Cooperative Association (NTCA), in its comments, argues that consumers benefit when they are aware of the costs of regulation and unfunded mandates. NTCA argues that consumers should be allowed to conduct their own cost-benefit analyses and determine which programs to support through the various line-item surcharges and fees. NTCA claims that line-item surcharges and fees rolled into rates leaves consumers in a state of ignorance. However, another Missouri consumer wrote, “From my limited experience it [having added charges included in the price of service] would be most helpful both in understanding current billings, and doing

⁴Consumer comment to the Missouri Public Service Commission in response to an article in the *Kansas City Star*. Comment No. P200400281. May 3, 2004.

comparative shopping.”⁵

Although the MoPSC supports NASUCA’s petition, it does have one concern. The NASUCA petition asks the Commission to declare that carriers are prohibited from imposing line items unless those items are expressly mandated by federal, state or local regulatory action, and the amount of such charge conforms to the amount expressly authorized by federal, state, or local governmental authority. This language from NASUCA’s petition may suggest that charges such as the federal universal service fund surcharge and the local number portability surcharge would not be allowed as separate line items since these charges are authorized, but not mandated. The MoPSC recommends the Commission declare that carriers are prohibited from imposing line item charges unless those items are expressly authorized or mandated by federal, state or local regulatory action, and the amount of such charge conforms to the amount expressly authorized or mandated by federal, state, or local governmental authority.

Respectfully submitted,

Natelle Dietrich
Regulatory Economist

Marc D. Poston, Senior Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8701 (Telephone)
(573) 751-9285 (Fax)

⁵ Consumer comment to the Missouri Public Service Commission in response to an article in the *Kansas City Star*. Comment No. P200400280. May 3, 2004.